

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GERALD W. BIRCH
[DX-4671]

v.

JOHN KERESTES, et al.

CIVIL ACTION

NO. 08-4778

ORDER

AND NOW, this 16th day of July, 2010, upon consideration of the pleadings and the record herein, and after review of the Report and Recommendation of M. Faith Angell, United States Magistrate Judge, it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED AND ADOPTED**.
2. Respondent's Motion to Dismiss (Docket Entry No. 18) is **GRANTED**.
3. The Petition for Writ of Habeas Corpus is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust available remedies.

There is no probable cause to issue a certificate of appealability.

BY THE COURT:


LAWRENCE F. STENGEL, J.